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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/950,013	09/10/2001	Bruce M. Warnes	MP-268B	9221

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EXAMINER

MEEKS, TIMOTHY HOWARD

ART UNIT	PAPER NUMBER
1762	

DATE MAILED: 07/22/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/950,013	WARNES ET AL.	
Examiner	Art Unit		
Timothy H. Meeks	1762		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 16 June 2003 .

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-33 is/are pending in the application.  
4a) Of the above claim(s) 1-18 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 19-33 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-33 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 10 September 2001 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,6 . 6)  Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of claims 19-33 in Paper No. 8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

### ***Claim Objections***

Claims 25, 26, 27, 31, and 32 are objected to because of the following informalities: In claim 25, line 3, "a" should be inserted prior to "plurality". In claims 26, 27, 31, and 32, line 2, "the" should be inserted before "gas". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19-29 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, proper antecedent basis is lacking for "said conduit" at line 3. The examiner suggests inserting "in a conduit" after "gas" at line 2 for clarification.

In claim 24, proper antecedent basis is lacking for "said lower end". It appears that this claim should depend from claim 21 since this is where the term "lower end" is introduced.

In claims 27 and 32, proper antecedent basis is lacking for "said gas discharge openings". The examiner suggests inserting "through gas discharge openings" after "conduit" at line 2 of these claims for clarification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19, 20, 29, 30, 31, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Arima et al. (4,926,793).

Arima discloses a CVD process comprising flowing a coating gas in a conduit (4) into a heated reaction chamber (2), heating the gas as it flows through the conduit, and discharging the gas through a gas distribution conduit into the reaction chamber (either 13, 13a, or the conduit area formed by the vertical wall of chamber (2) on one side and the substrate holder (5) on the other side to which the gas is diverted by the deflector (9) and flowed along, see col. 8, lines 45-68, col. 9, lines 25-38, col. 10, lines 20-30 and 60-66). The area between each substrate is a coating zone.

With respect to claim 20, the outer chamber (3) is a heated retort in which the chamber (2) is placed (Figure 1, col. 9, lines 25-36, col. 10, lines 25-30)

With respect to claim 29, reflection of heat to the chamber is taught at col. 9, lines 30-35.

With respect to claim 33, an exhaust baffle extending along all the coating zones is disclosed at col. 10, lines 60-66 and figure 4.

Claims 19 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Derderian et al. (5,451,692).

The claimed process is explicitly disclosed at figure 1, col. 5, lines 20-46, and col. 6, lines 29-43 and 58-68.

***Allowable Subject Matter***

Claims 24-28 and 32 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USP 5,146,869 is cited for its disclosure of preheating coating gas in a conduit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy H. Meeks whose telephone number is (703) 308-3816. The examiner can normally be reached on Mon., Tues., Thurs.(6-6:30), Fri.(6:30-10:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Timothy H. Meeks  
Primary Examiner  
Art Unit 1762

nf  
July 21, 2003